

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

JAE KALINA,

Charging Party,
-v-

WAGGONER TRUCKING,

Respondent,

Case # 0121015461

ORDER
FINAL AGENCY DECISION

Charging Party, Jae Kalina (Kalina), filed a complaint with the Department of Labor and Industry (Department) alleging discrimination in employment on the basis of sex and age. Following an informal investigation, the Department determined that Kalina's allegation of age discrimination were filed after the 180-day period and, therefore, was not adjudicable. *Section 49-2-501(4), MCA*. The Department further determined that a preponderance of the evidence did not support Kalina's allegations that Respondent Waggoner Trucking, discriminated against Kalina on the basis of sex. The Department issued a Notice of Dismissal. Kalina filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on January 16, 2013. Jae Kalina appeared and argued on her behalf. Tim Filz, attorney, appeared and argued on behalf of Waggoner Trucking.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to file a complaint in district court, in the district where the alleged violation occurred, and seek appropriate relief. *Section 49-2-511(3)(a), MCA*.

If a charging party fails to commence a civil action within 90 days, their claims are time barred.

Id.

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Sections 2-4-702 and 49-2-511(3)(b), MCA*. This review must be requested within 30 days of the date of this order.

IT IS HEREBY ORDERED, that Kalina's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Waggoner Trucking.

DATED this 16th day of January, 2013



Cynthia Wolken, Acting Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 16th day of January 2013.

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